

### **REMARKS**

Claims 20-23 and 25-35 are currently pending in this application. Claim 20 has been amended.

Claim 20 has been amended to recited, in relevant part, that the core “is secured against said formwork at the supporting surface *by mounting means*”; that the “*mounting means* extend through an opening in said formwork *to the outside of said formwork*”; and that the “*supporting surface* of said core [is] secured against said formwork.” Support for this amendment can be found in paragraphs [0018] and [0045-0046] of the published application (US 2005/0241263) and in the Figures. Accordingly, no new matter has been added by this amendment.

### **35 U.S.C. § 112 Rejections**

Claims 20-23 and 25-35 stand rejected under 35 U.S.C. § 112, first paragraph for failing to comply with the written description requirement. Specifically, the Office Action contends that the limitation that the diameter of the formwork opening is “smaller than the size of said part of said core secured against said formwork” is not supported by the Specification as originally filed. Figures 5 and 6 clearly indicate that the core diameter is larger than the diameter of the hole in the formwork. The core (63) of Fig. 5 and coupling sleeves (75) of Fig. 6 have diameters that are larger than the diameter of the hole in the formwork. If the core were not larger than the diameter of the hole in the formwork, it would be impossible to support the core against the formwork via a mounting means, such as bolt (64) of Fig. 5 and stud and nut (76, 77) of Fig. 6. Accordingly, Applicant respectfully submits that the limitation that the diameter of the formwork opening is “smaller than the size of said part of said core secured against said formwork” is supported by the Specification as originally filed.

Claims 20-23 and 25-35 stand further rejected under 35 U.S.C. § 112, second paragraph for being indefinite. Specifically, the Office Action contends that there is insufficient antecedent basis for the “part of said core secured against said formwork.” It is clear from the present Specification and from the Figures that the supporting surface is secured against the formwork. *See* paragraph [0018] of US 2005/0241263; Figs. 5-6. Therefore, claim 20 has been

amended to replace the “*part* of said core secured against said formwork” with the “*supporting surface* of said core secured against said formwork.” Applicant respectfully submits that this limitation has proper antecedent basis in claim 20.

The Office Action also rejects claim 20 on the basis that the “securing means” cannot exist sufficiently away from the formwork so that the securing means and formwork are at opposite extremes of the body and sufficiently at the formwork to be through the formwork simultaneously. As noted above, claim 20 has been amended to recite that the core “is secured against said formwork at the supporting surface *by mounting means*” and that the “*mounting means* extend through an opening in said formwork *to the outside of said formwork*.” The securing means and the mounting means are separate features of the claimed invention with mounting means, such as bolt (64) in Fig. 5 and stud and nut (76, 77), securing the core to the formwork, and the securing means, such as nut (26) in Fig. 1 and stud (74) in Fig. 6, remaining in the cavity of the concrete after removal of the mounting means, core and formwork. Therefore, Applicant respectfully submits that claim 20 is sufficiently definite.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first and second paragraphs.

### **35 U.S.C. § 103(a) Rejections**

Claims 20-22, 25-27, 29-33 and 35 stand rejected under 35 U.S.C. § 103(a) for obviousness over Belgium Patent No. 502,991 to S.T.U.P. (“S.T.U.P.”) in view of United States Patent No. 1,157,895 to Murphy et al. (“Murphy”).

S.T.U.P. is cited for disclosing a method of creating a cavity with truncated cone sections in concrete. The Office Action contents that S.T.U.P. discloses placing a core (1) and shaping rod (3) inside the sides of a mold (8, 9, 10) with the core (1) made of rubber. The Office Action acknowledges that S.T.U.P. does not disclose a securing means formed by the projections for an engagement part fitted into the concrete. The Office Action cites Murphy for overcoming S.T.U.P.’s deficiencies.

First, S.T.U.P. does not disclose a core and an elastomeric cover therefor as claimed in amended independent claim 20. S.T.U.P. merely teaches, with regard to Fig. 16, that

the rubber core (1) includes truncated cones (18) at an end thereof, the cones (18) being integrally molded with rubber core (1). S.T.U.P. does not disclose anywhere that a “relatively rigid core,” as claimed in claim 20, is used in conjunction with the embodiment disclosed in Fig. 16. S.T.U.P. further indicates that the diameter of each truncated cone (18) progressively decreases in the direction (F), wherein, when the rubber core (1) is removed from the concrete, the diameter of a larger cone (18) decreases to fit into the recess formed by smaller adjacent cone (18) to facilitate removal of rubber core (1) in the direction F. If a “relatively rigid core,” such as cores (63, 75) of the present application were inserted into rubber core (1) of S.T.U.P. the truncated cones would likely not decrease in size as intended to facilitate removal of the core (1). Therefore, the device disclosed in Fig. 16 of S.T.U.P. would be rendered inoperable for its intended purpose. *See* MPEP § 2143.01. Therefore, shaping rod (3) of Fig. 13 of S.T.U.P. could not be combined with the core (1) having truncated cones (18) of Fig. 16, thereby providing no motivation to modify the core (1) of Fig. 16 of S.T.U.P. with a “relatively rigid core.” The Office Action is picking various features of incompatible embodiments, which amounts to impermissible hindsight reasoning. *See* MPEP § 2145.

Furthermore, amended claim 20 specifically recites that the core, according to the present application, is secured to the formwork “at the supporting surface *by mounting means*” and that the “*mounting means extend through an opening in said formwork to the outside of said formwork.*” S.T.U.P. simply does not disclose mounting means as claimed in claim 1. Murphy does not disclose the claimed mounting means either. Murphy discloses a bolt (10) having a spiral thread (11), a helical strip (12) carried on the thread (11) and a holding plate (21) having a guide hole (25) for receiving the bolt (10). The bolt is received through opening (25) of the guide plate (21), and the guide plate (21) is positioned against a wall (20). Nails (29) are positioned in openings (30) of guide plate (21) and driven into wall (20), with the head (27) of bolt (10) positioned between the wall (20) and the plate (21). Nowhere does Murphy disclose a mounting means extending through an opening *to the outside* of a formwork. The presently claimed invention is secured against the formwork via a mounting means, for example by bolt (64) or stud and nut (76, 77), which extends to the outside of the formwork. *See* Figs. 5-6. The holding plate (21) of Murphy merely is attached to the wall (20) via nails (29) which, referring to

Figs. 2 and 3 of Murphy, do not extend *to the outside* of wall (20). If reused, the device of Murphy would require the driving of new nails (29) through plate (21) into a wall (20), whereas the present invention provides the advantage that the hole in the formwork can be in a standard reusable position, with the mounting means always extending through the same hole to secure the core to the formwork.

Moreover, none of the cited references teach a core that “is secured against said formwork at the supporting surface” of the core, as required by independent claim 20. The core of Murphy, i.e. bolt (10), and the core of S.T.U.P., i.e. core (1), are not secured *against* any formwork *at a supporting surface*. In fact, the bolt (10) of Murphy does not contact wall (20) in any manner, and the core (1) of S.T.U.P., actually extends *through* walls (8, 9, 10). Neither do any of the references teach that “the diameter of said [formwork] opening being smaller than the size of said supporting surface of said core secured against said formwork”. Because the core (1) of S.T.U.P. extends through holes in walls (8, 9, 10), the holes in walls (8, 9, 10) must be equal to or larger than core (1). Murphy simply does not teach a formwork opening at all, as claimed in independent claim 20.

Accordingly, independent claim 20, as amended, is neither taught nor suggested by S.T.U.P. or Murphy, taken either separately or in combination. Claims 21-22, 25-27, 29-33 and 35 depend from and include all limitations of independent claim 20, and, therefore, are believed to patentable for the reasons expressed above.

Claims 20, 23, 25, and 33 stand further rejected under 35 U.S.C. § 103(a) for obviousness over S.T.U.P. in view of United States Patent No. 4,018,470 to Tye (“Tye”) and Murphy.

Tye was cited as disclosing making the anchor to a slab interact with a pick-up insert that allows a T-head insert to engage internal thrust surfaces. However, Tye does not overcome the deficiencies of S.T.U.P. and Murphy. Specifically, Tye does not teach or suggest that “mounting means extend through an opening in said formwork to the outside of said formwork” with “the diameter of said opening being smaller than the size of said supporting surface of said core secured against said formwork”. Therefore, Tye, taken either separately or

in combination with S.T.U.P. and Murphy, does not teach or suggest the limitations of claims 20, 23, 25 and 33.

Claims 28 and 33 stand rejected under 35 U.S.C. § 103(a) for obviousness over S.T.U.P. in view of Murphy in further view of United States Patent No. 4,074,499 to Mess (“Mess”). Mess discloses that an elastomer body (25) is entered into item (11), by pushing a rod (30) in an upwards direction against the solid stem (22). Subsequently, rod (30) is removed and pouring of the concrete takes place. However, Mess does not overcome the deficiencies of S.T.U.P. and Murphy discussed above, and claims 28 and 33 depend from and include all the limitations of independent claim 20. Therefore, for the reasons expressed above, claims 28 and 33 are neither taught nor suggested by any of the cited references.

Claim 28 stands further rejected under 35 U.S.C. § 103(a) for obviousness over S.T.U.P. in view of Murphy in further view of German Patent No. DE 43 24 522 C1 to Krauss (“Krauss”), and claim 34 stands rejected under 35 U.S.C. § 103(a) for obviousness over S.T.U.P. in view of Murphy in further view of United States Patent No. 5,660,020 to Reay (“Reay”). Krauss was cited as teaching concrete around a reinforcing bar in a block’s central passage, and Reay was cited as teaching that a building panel may be made on or off site. Claims 28 and 34 depend from and include all the limitations of independent claim 20, and Reay and Krauss fail to overcome the deficiencies of S.T.U.P. and Murphy, as discussed above with respect to claim 20. Therefore, Krauss and Reay, taken either separately or in combination with S.T.U.P. or Murphy, fail to teach or suggest the limitations of claims 28 and 34.

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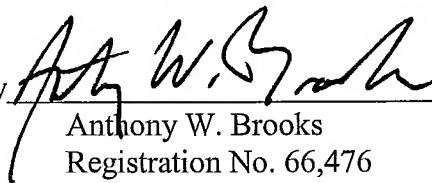
**CONCLUSION**

In view of the foregoing, Applicant respectfully submits that claims 20-22 and 25-35 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections.

Respectfully submitted,

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By

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